



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 W. Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

**Waste Programs Division
Solid Waste Rule Development Process
Stakeholder Workshop
Monday, June 11, 2007 1:30 p.m.
ADES Conference Room
400 W. Congress, Tucson, Arizona**

NOTES

ATTENDEES: See attached.

HANDOUTS

- Agenda.
- Developing a Framework for Regulating Solid Waste in Arizona (presentation).
- Draft Solid Waste Facility Classification: Tiered Regulatory Framework.
- Relevant statute and other references, contact information.

WELCOME

Facilitator Theresa Gunn, Gunn Communications, Inc., explained that the purpose of the meeting was to achieve the following:

- Review current solid waste rules and regulations.
- Present ADEQ's considerations in changes to solid waste regulation.
- Obtain stakeholder input.

Gunn facilitated attendee introductions and introduced ADEQ staff members.

INTEGRATED REGULATORY FRAMEWORK

Martha Seaman, Waste Programs Division, presented an overview of the regulatory framework. She reviewed key statutes and definitions, why rulemaking is necessary, and why it is necessary at this time. Highlights of assumptions include:

- Arizona has a regulatory deficit as compared to six western states: Utah, Nevada, New Mexico, Colorado, Texas, and Washington.
- Other states regulate both more waste streams and more types of solid waste facilities.
- There is a deficit in Arizona's rules regarding waste at facilities such as transfer stations and recycling facilities.

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Printed on recycled paper

Responses to stakeholder questions and comments:

- Common elements found in the six western states were considered.
- Other states' codes have a more specific statutory framework.
- Environmental justice was a driving element in the New Mexico rulemaking as it affected tribes.

Key stakeholder concerns included:

- Explain which regulations Arizona is considering from the other six states.
- Specifically, what will be changed?
- ADEQ is not doing its job in developing standards.
- Do we have a deficit if we consider all of the western region states, not just these six?
- A consideration will have to be new types of facilities, such as waste to energy, and the combining of waste streams.
- Is APP, which is site-specific and tailored to a facility, adequate to cover the new facilities?
- Rule development should be driven by a problem, not just the fact that there is a regulatory deficit.
- There is a rule deficit in Tucson regarding old landfills.
- Waste from/through/onto tribal lands is a concern to the tribe.
- Does ADEQ have the resources to enforce current regulations? How will they have enough full time employees to enforce a new rule?
- Will the disposal fee increase?
- Don't write rules for the sake of having rules.
- There is a lack of common language between jurisdictions. Common definitions and terminologies are needed.

INTEGRATED REGULATORY FRAMEWORK

Seaman presented a rule overview and agency assumptions. Highlights include:

- Consideration is made regarding the appropriate level of regulation.
- Legislative changes are not being sought, and the agency will work within the current statutory framework.
- Assumptions include:
 - Design and operating rules will be written.
 - A basic set of substantive requirements will apply to all solid waste facilities.
 - Requirements beyond the minimum may be required according to the type of facility.
 - A procedural framework for assuring compliance.
 - Financial assurance will be required after design and operating requirements are in place. A new facility could not operate without demonstrating financial assurance. An existing facility must show financial responsibility but may continue to operate.
- ADEQ will fully implement APP standards for all landfills.
- Rules will be adopted to address the handling of conditionally exempt small quantity generator waste in the solid waste stream.
- A tiered regulatory approach would include the following categories:
 - Exempt.
 - Subject to inspection.
 - Subject to best management practices.

- Self-certification.
- Subject to plan approval (classic permitting process).

Responses to stakeholder questions and comments:

- APP does not apply to transfer and recycling operations.
- APP will not be changed as part of this rulemaking.
- Non-municipal solid waste landfills will not need two different permits. The new permit will comply with current APP requirements.
- Operator will be given a BMP instead of an operating standard. This is a compliance requirement instead of a specific descriptive BMP. In the solid waste context, the concept of “BMP” differs from that applicable in air quality and water quality rules.

Key stakeholder concerns included:

- Because of the lack of design and operation rules, ADEQ has not implemented the statutory mandate regarding financial assurance being demonstrated 180 days after effective date of design and operation rules.
- How many facilities that pose a risk don't have financial assurance because they are covered under APP?
- Is ADEQ okay with Part 258 covering municipal solid waste landfills?
- What are the differences between Part 258 and APP? Will landfills be double-regulated with double permits?
- What is the problem occurring in the protection of the public health and environment that these new rules are trying to solve? There is no problem with health and human welfare.
- Don't need a regulatory surplus.
- Rules need to be consistent with statute and right now they aren't.
- The sooner we see the draft rule, the better.
- Consider education vs. regulation.
- Operating under a permit is specific. Using BMPs and self-certification, it seems like compliance would be a moving target. Without issuance of a permit, could be in a situation that requires negotiation with the compliance officer.

WHICH FACILITIES WILL BE COVERED BY THE NEW RULE?

Seaman presented the regulatory tier designation matrix. The matrix includes the type of solid waste facility, the tier(s) under which a facility would be included, and citations for the statute(s) used to determine the tier.

Responses to stakeholder questions and comments:

- A drop box is an unmanned transfer facility, such as a roll off.
- To some extent, it would be a good approach to separately address each element at a facility with multiple activities.
- There are many exemptions noted on page 2, in items 1, 2, and 4, that may address noted questions such as:
 - (Page 5, #8): Roll-offs at a construction site or in an alley are a very transient “facility. These are typically six to 40 cubic yards. Solid waste rolling stock is already covered under AAC Title 18, Chapter 13, Article 3.

- (Page 6, #5): Is there a limit on how much cooking grease at a restaurant, or collected in someone's garage from neighbors for bio-diesel, would be considered?

Key stakeholder concerns included:

- There is a distinction for the type of composting facility, not the type of waste being composted.
- Various facilities are described by volume expressed in cubic yards. This should be converted to tonnage requirements, which can be scaled.

Action item:

- Check statute to determine whether 180 cubic yards per day is according to waste characterization.

ARTICLE 3 AND OTHER REGULATORY ISSUES

Seaman reviewed the handling of solid waste other than at solid waste facilities, Article 3 considerations, and next steps in the rulemaking process. Highlights included:

- AAC Ch13, Art 3 may be amended.
- These rules referring to methods of disposal date back to the 1960s and have not been updated. These rules are obsolete due to subsequent statutes.
- Basis for county delegation agreements.

Responses to stakeholder questions and comments:

- Exempt as an SWF, but subject to Article 3 means that although the activity in question is considered exempt as a facility, it may be included under the general rules.
- Those activities that are currently included in Article 3 probably should be considered in this rulemaking process

Gunn asked stakeholders whether the agency was going in the proper direction with the use of the tiered approach. Highlights of comments included:

- Like the site-specific information.
- Tough to not have specific conditions listed in the permit.

Gunn summarized the key stakeholder points:

- Application of APP to landfills currently covered by Part 258.
- Question of CESQG generators.
- Lack of certainty to self-cert and BMP tiers.
- Determine the problem, then determine whether the rule will address the problem.

There were not any dissenting comments regarding these conclusions.

Gunn asked stakeholders what other concerns they had and what information should have been included in the presentation. Stakeholder feedback included:

- How will this be paid for?
- Issue of development on pre-1986 landfills that are not subject to APP.

- Ability for the state to implement research, development, and demonstration (otherwise known as RD&D) (federal) rules.
- State should take a close look at waste to energy operations.
- Blended waste, such as wastewater with municipal solid waste (anaerobic generation).
- New technology.
- Consistency with competitors.
- Need ADEQ guidance on implementing rules, help with testing information, protocols, and BMPs.
- Consistency with federal exemptions, especially for small landfills.

Seaman reviewed next steps including distribution of the rule text in August; workshops on rule text in September and October, and filing the notice of proposed rulemaking by the end of 2007. She noted that it is the staff's intent to post the meeting summary on the agency website. Rule text workshops may be offered by facility type to better address areas of interest.

Stakeholder comments regarding the next steps included:

- Would like to receive draft rule in Word.
- Would like references to citations hyperlinked.
- Want more information about the implementation timeline after approval.

Action item:

- Check statute to determine whether 180 cubic yards per day is according to waste characterization.



Waste Programs Division
Solid Waste Rule Development Process
Stakeholder Attendees – June 11, 2007, 1:30 p.m.

Name		Organization	Phone	E-Mail
David	Bell	City of Tucson	520-791-5414	
Lisa	Ben-Dror	student		
Garth	Bowers	Cornerstone Environmental Group	520-888-4800	garth.bowers@cornerstoneEG.com
David	Eaker	Pima County DEQ-SWM	520-744-6173	Dave.Eaker@deq.pima.gov
Marcelino	Flores	Pascua Yaqui Tribe	520-879-6314	
Colby	Fryar	Pima County	520-744-6173	colby.fryar@deq.pima.gov
Reg	Glos	Pinal County	520-866-6863	reg.glos@co.pinal.az.us
Larry	Hawke	Pima County DEQ	520-740-3337	
Randy	Heiss	Town of Patagonia	520-394-2229	patagoniagov@qwest.net
Jim	Mikolaitis	Tucson Env. Services	520-791-4183	jim.mikolaitis@tucsonaz.gov
Sarah A.	Moore	University of Arizona	520-975-8093	samoore@email.arizona.edu
Karl	Moyers	Santa Cruz County	520-375-7830	kmoyers@co.santa-cruz.az.us

ADEQ and facilitation staff included:

Veronica Garcia, ADEQ
 Sue Keith, ADEQ
 Mark Lewandowski, ADEQ
 Martha Seaman, ADEQ
 Sherri Zendri, ADEQ
 Theresa Gunn, Gunn Communications, Inc.
 Kelly Cairo, Gunn Communications, Inc.